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7 **BEFORE THE**  
**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. OA2005-91

11 **MICHAEL EDWARD CLARK**  
1151 El Centro  
12 Napa, California, 94558

**A C C U S A T I O N**

13 Occupational Therapy Assistant  
14 Certificate Number OTA 1245

Respondent

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Heather Martin (Complainant) brings this Accusation solely in her official  
19 capacity as the Executive Officer of the California Board of Occupational Therapy, Department  
20 of Consumer Affairs.

21 2. On or about July 1, 3003, the California Board of Occupational Therapy,  
22 Department of Consumer Affairs, issued Occupational Therapy Assistant Certificate Number  
23 OTA 1245 to Michael Edward Clark (Respondent). The Certificate was in full force and effect at  
24 all times relevant to the charges brought herein and expired on November 30, 2007.

25 **JURISDICTION**

26 3. This Accusation is brought before the California Board of Occupational  
27 Therapy (Board), Department of Consumer Affairs, under the authority of the following laws.  
28 All section references are to the Business and Professions Code unless otherwise indicated.

1                   4.     Section **2570.26** of the Code provides, in pertinent part:

2                   “(a) The board may, after a hearing, deny, suspend, revoke, or place on  
3 probation a license, certificate, inactive license, inactive certificate, or limited  
4 permit.”

5                   “(b) As used in this chapter, "license" includes a license, certificate,  
6 limited permit, or any other authorization to engage in practice regulated by this  
7 chapter.”

8                   “...”

9                   5.     Section **2570.30** provides:

10                  “The board shall retain jurisdiction to proceed with any investigation,  
11 action or disciplinary proceeding against a license, or to render a decision  
12 suspending or revoking a license, regardless of the expiration, lapse, or suspension  
13 of the license by operation of law, by order or decision of the board or a court of  
14 law, or by the voluntary surrender of a license by the licensee.”

#### 15                   **STATUTORY AND REGULATORY PROVISIONS**

16                  6.     Section **2570.3** of the Code provides, in pertinent part:

17                  “(a) No person shall practice occupational therapy or hold himself or  
18 herself out as an occupational therapist or as being able to practice occupational  
19 therapy, or to render occupational therapy services in this state unless he or she is  
20 licensed as an occupational therapist under the provisions of this chapter. ...”

21                  “...”

22                  “(j) "Supervision of an occupational therapy assistant" means that the  
23 responsible occupational therapist shall at all times be responsible for all  
24 occupational therapy services provided to the client. The occupational therapist  
25 who is responsible for appropriate supervision shall formulate and document in  
26 each client's record, with his or her signature, the goals and plan for that client,  
27 and shall make sure that the occupational therapy assistant assigned to that client  
28 functions under appropriate supervision. As part of the responsible occupational  
therapist's appropriate supervision, he or she shall conduct at least weekly review  
and inspection of all aspects of occupational therapy services by the occupational  
therapy assistant.”

“(1) The supervising occupational therapist has the continuing  
responsibility to follow the progress of each patient, provide direct care to the  
patient, and to assure that the occupational therapy assistant does not function  
autonomously.”

“...”

7.     Section **2570.13(b)** provides:

“(b) A certified occupational therapy assistant may practice only under the  
supervision of an occupational therapist who is authorized to practice  
occupational therapy in this state.”

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1           “(f) Occupational therapy practitioners shall provide accurate information  
2 about occupational therapy services.”

3           (1) Occupational therapy practitioners shall accurately represent their  
4 credentials, qualifications, education, experience, training, and competence.

5           “...”

6           “(3) Occupational therapy practitioners shall refrain from using or  
7 participating in the use of any form of communication that contains false,  
8 fraudulent, deceptive statements or claims.”

9           11. California Code of Regulations, Title 16, section 4181, states, in pertinent  
10 part:

11           “(a) Appropriate supervision of an occupational therapy assistant includes,  
12 at a minimum:”

13           “(1) The weekly review and inspection of all aspects of occupational  
14 therapy services by the supervising occupational therapist.”

15           “(2) Documentation of the supervision process shall include  
16 documentation of the client's care or co-signature by the supervising occupational  
17 therapist of the occupational therapy assistant's documentation.”

18           “(3) The supervising occupational therapist shall be readily available in  
19 person or by telecommunication to the occupational therapy assistant at all times  
20 while the occupational therapy assistant is providing occupational therapy  
21 services. The supervising occupational therapist shall provide periodic on-site  
22 supervision and observation of the assigned client care rendered by the  
23 occupational therapy assistant.”

24           “(b) The supervising occupational therapist shall at all times be  
25 responsible for all occupational therapy services provided by an occupational  
26 therapy assistant, a limited permit holder, a student or an aide. The supervising  
27 occupational therapist has continuing responsibility to follow the progress of each  
28 client, provide direct care to the client, and assure that the occupational therapy  
assistant, limited permit holder, student or aide do not function autonomously.”

“...”

“(d) Occupational therapy assistants may supervise:

(1) Level I occupational therapy students;

(2) Level I and Level II occupational therapy assistant students; and

(3) Aides providing non-client related tasks.”

“(e) The supervising occupational therapist shall determine that the  
occupational therapy assistant or limited permit holder possesses a current  
certificate or permit to practice occupational therapy prior to allowing the person  
to provide occupational therapy services.”

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17. While operating Valley Rehab, Respondent billed patients and their insurance carriers, including Medicare, for the above-described occupational therapy services performed by Respondent. In submitting this billing, Respondent used provider information of licensed occupational therapists that worked at Valley Rehab.

(Unprofessional Conduct)

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1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Occupational Therapy issue a decision:

4 23. Revoking or suspending Occupational Therapy Assistant Certificate  
5 Number 1245, issued to Michael Edward Clark;

6 24. Ordering Michael Edward Clark to pay the Board of Occupational Therapy  
7 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
8 Professions Code section 125.3;

9 25. Taking such other and further action as deemed necessary and proper.

10 DATED: December 17, 2007

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13 Heather Martin  
14 Executive Officer  
15 California Board of Occupational Therapy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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